

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554
MAR 2 2 33 PM '93

DISPATCHED BY MM Docket No. 92-281 ✓

In the Matter of

Amendment of Section 73.202(b), RM-8118
Table of Allotments,
FM Broadcast Stations.
(Columbia Falls, Montana)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 8, 1993;

Released: March 2, 1993

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 7 FCC Rcd 7847 (1992), issued in response to a petition filed by Frank Copsidas, Jr. ("petitioner"), permittee of Station KCWX, Channel 240A, Columbia Falls, Montana, proposing the substitution of Channel 240C2 for Channel 240A at Columbia Falls. Petitioner also requested modification of its construction permit (File No. BPH-911122MC) for Station KCWX to specify operation on Channel 240C2. Petitioner filed comments in which he reaffirmed his interest in the allotment of Channel 240C2 at Columbia Falls. Bee Broadcasting, Inc. ("Bee Broadcasting") filed comments. Petitioner filed reply comments.

2. Bee Broadcasting, licensee of Station KJJR(AM), Whitefish, Montana, and Station KBBZ(FM), Kalispell, Montana, alleges that the allotment of Channel 240C2 at Columbia Falls at petitioner's specified site will not provide city grade coverage to the entire community. According to Bee Broadcasting, from petitioner's site, more than twenty percent of Columbia Falls will not receive city grade coverage. Bee Broadcasting contends that the true purpose of the requested modification is to provide principal service to Kalispell and Whitefish, and not Columbia Falls. For these reasons, Bee Broadcasting requests that the proposed upgrade at Columbia Falls be denied.

3. In reply comments, petitioner disputes Bee Broadcasting's statements that the proposed upgrade at Columbia Falls will not serve the community with the required city grade coverage. Petitioner provides an engineering study confirming that complete line of sight coverage exists to enable Channel 240C2 to provide a full 70 dBu signal to the entire community of Columbia Falls at its selected site. Petitioner denies the claim made by Bee Broadcasting that service will be abandoned at Columbia Falls in order to serve Kalispell and Whitefish, Montana, and contends that

the location of its studio outside of Columbia Falls is in compliance with the Commission's Rules. According to petitioner, the studio for Station KCWX could be located in Columbia Falls, Kalispell or Whitefish and be in compliance with Section 73.1125 of the Commission's Rules as the communities are located within the station's principal community contour.¹ Based on the above information, petitioner requests that Bee Broadcasting's allegations be rejected and the proposal for Columbia Falls be granted.

4. We believe the public interest would be served by the substitution of Channel 240C2 for Channel 240A at Columbia Falls, Montana, since it would provide the community with expanded service. In response to Bee Broadcasting's comments, a Commission engineering analysis confirms that city grade coverage will be provided to the community of Columbia Falls at petitioner's specified site. The substitution can be made in compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules at petitioner's specified site.² Since Columbia Falls is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained for this allotment. We shall also modify the construction permit for Station KCWX, Channel 240A, to specify operation on Channel 240C2 in accordance with Section 1.420(g) of the Commission's Rules.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 15, 1993, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

Community	Channel No.
Columbia Falls, Montana	240C2

6. IT IS FURTHER ORDERED, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the construction permit for Station KCWX, Columbia Falls, Montana, IS MODIFIED to specify operation on Channel 240C2, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the permittee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility.
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

¹ Petitioner notes that Bee Broadcasting is the licensee of Station KBBZ(FM), Kalispell, Montana, and that its studio is located in Whitefish, Montana.

² The coordinates for Channel 240C2 at Columbia Falls are 48-27-35 and 114-20-25.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Frank Copsidas, Jr., permittee of Station KCWX, is required to submit a rule making fee in addition to the fee required for the applications to effect the upgrade.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau